

Before the
Federal Communications Commission
Washington, DC 20554

In the Matter of:

Review of the Section 251 Unbundling)	CC Docket No. 01-338
Obligations for Incumbent Local Exchange Carriers)	
)	
Implementation of the Local Competition)	CC Docket No. 96-98
Provisions of the Telecommunications Act of 1996)	
)	
Deployment of Wireline Services Offering)	
Advanced Telecommunications Capability)	CC Docket No. 98-147

RESPONSE OF

**TELECOMMUNICATIONS RESEARCH AND ACTION CENTER;
ALLIANCE FOR PUBLIC TECHNOLOGY;
AMERICAN ASSOCIATION OF PEOPLE WITH DISABILITIES;
COMMUNITY ACTION PARTNERSHIP;
DEAFNESS RESEARCH FOUNDATION;
LEAGUE OF UNITED LATIN AMERICAN CITIZENS;
THE MAAC PROJECT;
NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE
(ALEXANDRIA, VIRGINIA BRANCH);
NATIONAL BLACK CHAMBER OF COMMERCE;
NATIONAL CAMPAIGN FOR HEARING HEALTH; AND
WORLD INSTITUTE ON DISABILITY**

TO

PETITION FOR CLARIFICATION AND/ OR PARTIAL RECONSIDERATION

November 17, 2003

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I. INTRODUCTION

We, the undersigned urge the Commission to define multi-unit-premises (MUPs) so that the nation's more than 100 million households that live in MUPs are not denied access to the next generation of broadband and provision of broadband services that can enhance the quality of life with a broad range of applications, such as telemedicine, distance learning and public safety.

The Federal Communications Commission (Commission) voted on its "Triennial Review Order" (or TRO) in February 2003, and subsequently released the text in August 2003. The Commission promulgated these rules with the intent of "eliminating most unbundling requirements for broadband, making it easier for companies to invest in new equipment and deploy the **high-speed services that consumers desire.**"¹ We note that a number of Petitions for Reconsideration of the TRO order are pending before the Commission. We are concerned that the Commission's rules related to how new broadband networks are going to be deployed conflict with the Commission's stated goal of removing barriers to broadband deployment. Specifically, the Commission's rules are unclear as to whether fiber loops serving multi-unit premises, e.g. apartments, are to be treated like single-family homes (with no unbundling requirements) or like large businesses (subject to unbundling requirements). If apartments are defined as large business enterprises, Local Exchange Carriers (LEC) have very little incentive to service apartment dwellers with advanced technology only to have competitors take advantage of the LECs' capital investment.

¹ Report and Order on Remand and Further Notice of Proposed Rulemaking, at ¶ 4 (rel. Aug. 21, 2003) ("Triennial Review Order" or "Order"). Emphasis added.

II. STATEMENTS OF INTEREST

TRAC, representing a large cross-section of consumer groups, is a non-profit, national consumer group, concerned with promoting the best interests of telecommunications consumers. TRAC is particularly concerned that people with disabilities, senior, minority and lower income citizens -- who disproportionately occupy multi-unit-premises (MUPs) -- will be excluded from the benefits of broadband deployment because of the disincentives created by the Commission's treatment of MUPs as large business.

The **Alliance for Public Technology (APT)** is a nonprofit membership organization based in Washington, DC. Membership is open to all nonprofit organizations and individuals, not members of the affected industries, concerned with fostering access to affordable and useful information and communication services and technologies by all people.

The **American Association of People with Disabilities (AAPD)** is the largest national non-profit cross-disability organization in the country, dedicated to ensuring economic self-sufficiency and political empowerment for the more than 56 million Americans with disabilities.

Community Action Partnership (CAP) serves as a national forum for policy on poverty and to strengthen, promote, represent and serve its network of member agencies to assure that the issues of the poor are effectively heard and addressed. CAP advances the economic condition, educational attainment, political influence, health and civil rights of low-income Americans through community-based programs operating at more than 900 Community Action Agencies nationwide. It is CAP's mission to ensure that low-income Americans are not left behind.

The **Deafness Research Foundation** was founded in 1958 and is the leading source of private funding for basic and clinical research in hearing science. The DRF is committed to making lifelong hearing health a national priority by funding research and implementing education projects in both the government and private sectors. In effect, DRF is the "venture

capital” arm of hearing research, annually awarding grants to promising young researchers and established researchers to explore new avenues of hearing science.

The **League of United Latin American Citizens (LULAC)** is the largest and oldest Hispanic Organization in the United States, with approximately 115,000 members throughout the United States and Puerto Rico. LULAC advances the economic condition, educational attainment, political influence, health and civil rights of Hispanic Americans through community-based programs operating at more than 600 LULAC councils nationwide. According to the latest United States Census figures, which may actually under count the Hispanic population in the United States, more than one-third of Hispanic households are located in MUPs. LULAC urges the FCC to recognize that in addition to surmounting language and cultural barriers, Hispanic Americans who live in MUPS should not have to hurdle the FCC’s unintentional broadband barrier.

The **MAAC Project** is a multi-purpose social service agency with a successful thirty-eight year history of serving various communities throughout San Diego County. As one of the most successful social service agencies in the county, MAAC has continuously assisted low-income clients in achieving a higher level of self-sufficiency.

MAAC serves over 35,000 individuals per year and over the past 38 years has touched the lives of over 1,000,000 clients. Employing over 300 personnel, MAAC staffs 35 sites bringing to its constituents empowering social services, health components, a state of arts charter school, technology centers, economic development, affordable housing...building community. MAAC maintains and continues to instill in every program under its umbrella the object of its mission...the achievement of self-esteem and self-sufficiency.

The **National Association for the Advancement of Colored People (NAACP)**, **Alexandria, Virginia Branch** (<http://www.naacpalexandria.org/>) was chartered in 1934 in

Virginia. For 67 years the Alexandria Branch has been dedicated to the principles and vision of the NAACP, which is to master the democratic process to ensure opportunity for all. It is the oldest and largest organization of its kind. The Alexandria NAACP believes that residents of MUPs —many of whom are NAACP constituents – should have the same opportunity to have access to broadband services as single-family homeowners. It is unjust that where one resides may consign one to limited access to technological resources necessary to effectively participate in our democracy.

The **National Black Chamber of Commerce (NBCC)** is the largest Black business association in the world. NBCC has 207 chapters located in 40 states and 8 nations and has direct access to over 85,000 Black owned businesses and proudly represent the 850,000 Black owned businesses located in the United States. One of the NBCC's primary goals is the removal of barriers to commerce. The lack of access to broadband is such a barrier that continues to disproportionately impact under served urban communities where many small, woman and minority-owned businesses are located.

The **National Campaign for Hearing Health** is sponsored by the [Deafness Research Foundation](#), and is the nation's largest voluntary health organization devoted to research and public education related to hearing loss and hearing health. The National Campaign for Hearing Health is committed to putting hearing health on the national agenda. The Campaign is working to raise awareness of hearing issues, improve hearing options for those living with hearing loss, and to protect those at risk. By advocating for detection, prevention, intervention, and research, the Campaign promotes a lifetime of hearing health for all Americans – babies, children, teens, adults, and seniors.

The **World Institute on Disability (WID)** is a nonprofit public policy center that is dedicated to promoting the civil rights and full societal inclusion of people with disabilities.

Many of WID's members reside in MUPs and would be adversely impacted if the Commission does not clarify its rules so that carriers have incentives to deploy broadband services to where its members work and live. Since its founding in 1983 by [Ed Roberts, Judy Heumann and Joan Leon](#), WID has earned a reputation for high quality research and public education on a wide range of issues. The [Board of Directors](#) and [staff](#), over half of whom are people with disabilities, are respected national leaders in the disability field as well as in industry, government and social services. This enables WID to bring a cross-disability perspective to the policy arena. WID's innovative personnel policies are national models of affordable reasonable accommodation, including personal assistance, adaptive technology and flexible work scheduling.

III. DISCUSSION

Approximately 25 million households, representing about 100 million people live in MUPs.² A disproportionate number of these households are occupied by people living with disabilities, seniors, minorities and low-income citizens for whom broadband access could bring: better and more affordable health care; expanded educational opportunities for lifelong learning; increased independent living; more job opportunities and economic advancement as well as many other benefits. The undersigned are troubled by the impediment to rapid broadband deployment to MUPs that the Commission seems to be erecting. Under its recent TRO, the Commission seems to treat MUPs the same as it treats large business customers, instead of treating MUPs as a residential or small business customer.

Under the present scenario, rules that were designed to promote residential deployment of broadband services would not apply to these 25 million households. Specifically, LECs would be required to share or “unbundle” their costly fiber networks. The result will be that these carriers

² See American Housing Survey for the United States: 2001.
<http://www.census.gov/hhes/www/housing/ahs/ahs01/ahs01.html>

would avoid deploying to MUPs, favoring instead areas that have no such impediments, i.e. single family and mass market areas. The current policy runs counter to the goal of ubiquitous deployment of broadband as it creates an incentive for carriers to deploy in upscale single family neighborhoods without unbundling requirements over multi-tenant public housing projects that have unbundling requirements.

The Commission should clarify its rules so that MUPs are defined as mass market locations, rather than large business locations. This would make it clear that mass market rules apply to MUPs and there would be no requirement to unbundle broadband. The removal of broadband unbundling requirements, in turn, will provide incentives for LECs to rapidly deploy broadband to the communities that could benefit from it the most.

IV. CONCLUSION

The Commission must act now to ensure that the emerging broadband access dwelling divide between single-family homeowners and multi-unit premises occupants does not grow into a chasm. Clarifying the rules so that MUPs are treated as mass market locations (without broadband unbundling requirements) rather than large business locations will go a long way towards speeding up the deployment of broadband to a substantial segment of the nation's underserved population: people with disabilities, seniors, lower income and minority consumers.

Respectfully submitted by the undersigned,

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